

**LAW LIBRARY**  
**ARIZONA ATTORNEY GENERAL**

September 2, 1950  
Op. No. 50-322

Hon. Harold Patten  
Member of Congress  
District No. 2  
Washington, D. C.

*M/R*

Dear Harold:

We have your letter of August 28 in reference to your nomination papers, heretofore filed with the Secretary of State.

It appears from your letter the papers contained 7,171 signatures of voters, which number is in excess of 10% of the total vote of your party.

Section 55-1005, ACA 1939, supplement, reads in part as follows:

"1. If for a candidate for \* \* \* representative in congress, \* \* \* by a number of qualified electors equal to at least one (1) per cent of the votes of the party of such candidate in at least three (3) counties in the state, but not less than one (1) per cent nor more than ten (10) per cent of the total vote of his party in the state; \* \* \* "

Our statute does not prescribe a penalty for filing nomination papers carrying more than the maximum of signatures, nor does it say that the filing of such a paper is illegal.

In the case of Sims Printing Company v. Ana Frohmiller, 47 Ariz. 561, 58 Pac. 2d 518, our Supreme Court in speaking of said Section 55-1005, supra, had this to say:

"The provisions of article 10, chapter 22, supra, as amended, are directed to persons who desire to become candidates at a primary election and prescribe what such persons must or must not do. The duties of the Secretary of State in connection with such candidacies are more implied than direct. The Secretary of State, when a candidate is running for a statewide office, or for an office in an electoral district greater than a county, is made the depository of papers such candidate must have in order to qualify him to have his name printed on the ballot. If the candidate's nomination petition and his nomination papers substantially comply with the provisions of the law in form and substance, and are timely presented to the Secretary of State, such candidate is entitled to have his name certified

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by the secretary to the different boards of supervisors so that his name may be printed upon the official ballot. \* \* \* " (Emphasis supplied)

Evidently the Secretary of State was satisfied that your papers were substantially in the form prescribed by law, and contained a sufficient number of signatures, or he would not have accepted and filed the same.

Since our statutes do not prescribe that a penalty be assessed against a candidate for filing nomination papers containing a number of signatures in excess of the maximum number, and since the Secretary of State accepted and filed your papers it is our opinion you have qualified under the law, and are legally entitled to have your name certified to the proper Boards of Supervisors so your name may be placed on the ballot.

It may be that Section 55-1005, supra, does not apply to a candidate for representative in Congress, but we do not think it necessary to express an opinion on this question.

Yours truly,

FRED O. WILSON  
Attorney General

EARL ANDERSON  
Assistant Attorney General

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